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#1A

In re application of :
Edwin Southern :
Serial No. 08/230,012 :
Filed: April 19, 1994 :
For: ANALYSING POLYNUCLEOTIDE :
SEQUENCES :
: LETTER GRANTING
: FILING DATE

This is in response to the petition filed June 14, 1994, requesting that the above-identified application be treated as a proper continuation application under 37 CFR 1.62 and accorded a filing date of April 19, 1994.

On June 1, 1994, Application Branch mailed a Notice of Improper FWC Filing stating that the application papers deposited April 19, 1994, were not in compliance with 37 CFR 1.62 since the prior application was abandoned before the continuing application was filed.

In response, on June 14, 1994, the present petition was filed wherein petitioners argues that the notice was mailed in error since a 3-month petition for extension of time was filed in the prior application. Accordingly, petitioner requests that the application be accorded a filing date and that the petition fee be refunded.

A review of the record reveals that a final Office action was mailed on October 19, 1993. On March 3, 1994, an amendment and petition for extension of time for two months were filed. On April 19, 1994, a further petition for extension of time for an additional month was filed. In view of the further petition for extension of time filed April 19, 1994, the prior application would not have become abandoned until after midnight, April 19, 1994. Therefore, copendency did exist between application Serial Nos. 07/695,682 and 08/230,012 on April 19, 1994, the date of deposit of application Serial No. 08/230,012.

The request is granted. The notice mailed June 1, 1994, is hereby vacated.

The application is being forwarded to the Office of Finance for crediting the \$130.00 petition fee to counsel's deposit account No. 23-0975.

Thereafter, the application will be returned to Application Branch for further processing with a filing date of April 19, 1994, as a continuation application under 37 CFR 1.62 of prior application Serial No. 07/695,682.

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